

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN BERSHAK	:	CIVIL ACTION
	:	
v.	:	
	:	
PHILADELPHIA GAS WORKS,	:	
PHILADELPHIA FACILITIES	:	
MANAGEMENT CORP. and	:	
CITY OF PHILADELPHIA	:	NO. 00-1873

MEMORANDUM ORDER

Plaintiff alleges that the termination of his employment with the Philadelphia Gas Works ("PGW") violated "public policy" and the Pennsylvania Whistleblower Statute. Presently before the court is the Motion of defendants PGW and Philadelphia Facilities Management Corporation to Enforce a Settlement Agreement.¹

The following pertinent facts are undisputed. With express authority from plaintiff, plaintiff's counsel made a settlement offer which defendants accepted. Defense counsel then sent a draft settlement agreement to plaintiff's counsel which he reviewed with plaintiff. Plaintiff's counsel then suggested one technical change which defense counsel made. Plaintiff then signed the final written agreement. He asked his counsel, however, physically to retain the executed agreement and to write

¹The parties acknowledge that in December 2000 they stipulated to the dismissal with prejudice of all claims against defendant City of Philadelphia.

a letter to defense counsel requesting an "additional benefit." This "additional benefit" was essentially an enhancement of his pension benefits. Defendants promptly declined plaintiff's request.

Plaintiff does not contest that the parties reached a settlement agreement on the terms set forth in the executed document. To the contrary, plaintiff states in his response to the instant motion that "without intending to change the original settlement agreement," plaintiff "requested but did not demand an additional benefit." Plaintiff merely states that he felt that by conferring the requested additional benefit, "defendants would be expressing a statement that plaintiff's work was of value, and deserving of appropriate evaluation of his technical modifications."

The court has jurisdiction to enforce a settlement agreement entered into by parties in a case currently pending before it. See McCune v. First Judicial Dist. Of Pa. Probation Dep't, 99 F. Supp. 2d 565, 566 (E.D. Pa. 2000). A settlement agreement is binding once the parties express mutual assent to its terms and conditions. See Main Line Theatres, Inc. v. Paramount Film Distrib. Corp., 298 F.2d 801, 803 (3d Cir. 1962); Pugh v. Super Fresh food Markets, Inc., 640 F. Supp. 1306, 1308 (E.D. Pa. 1986). A settlement agreement need not be reduced to writing to be enforceable. See Green v. John H. Lewis & Co., 436

F.2d 389, 390 (3d Cir.1970); McCune, 99 F. Supp. 2d at 566. That a party experiences a change of heart after a settlement agreement has been reached will not invalidate the agreement. See McCune, 99 F. Supp. 2d at 566; Pugh, 640 F. Supp. at 1308. See also Good v. Pennsylvania R.R., 384 F.2d 989, 990 (3d Cir.1967) ("The obligation to remain bound by a valid agreement of settlement duly entered into by counsel with the authority of his client is one which pervades the law.").

The court has not seen a more clear case for enforcement of a settlement agreement. Plaintiff expressly authorized his counsel to enter a settlement with defendant and signed a written agreement containing the terms of that settlement. In return for no additional consideration, plaintiff then "requested" a pension benefit "without intending to change the original settlement agreement" but rather for reasons of self-esteem. Plaintiff has not even had a proverbial change of heart. Rather, he appears to be withholding an executed document containing the terms of the parties' settlement including an agreed upon release of claims as leverage to obtain a further unbargained for benefit. Under any standard of proof, it is clear that the parties reached a valid and enforceable settlement agreement which concludes this litigation.

ACCORDINGLY, this day of February, 2001, upon consideration of defendants' Motion to Enforce Settlement

Agreement (Doc. #13) and plaintiff's response thereto, **IT IS**
HEREBY ORDERED that said Motion is **GRANTED** in that the settlement
agreement is enforced according to its plain written terms which
the parties shall honor forthwith, and this case will be
dismissed with prejudice consistent with L. R. Civ. P. 41.1(b)
with the express intent of the court to retain jurisdiction for
the purpose of enforcing, if necessary, this order granting
defendants' Motion to Enforce Settlement Agreement.

BY THE COURT:

JAY C. WALDMAN, J.

